



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**
100 CAMBRIDGE STREET, 12TH FLOOR
BOSTON, MA 02202

A. PAUL CELLUCCI
GOVERNOR

JANE SWIFT
LIEUTENANT GOVERNOR

DANIEL A. GRABAUSKAS
DIRECTOR OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

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June 11, 1999

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Magalie Roman Salas, Secretary
Federal Communications Commission
Portals II, 445 12th Street SW, Suite TW-A325
Washington, DC 20554

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JUN 11 1999

FCC MAIL ROOM

re: NSD-L-98-136, CC Docket 96-98
In the Matter of the California Public Utilities Commission's Request for Delegation
of additional Authority pertaining to Area Code Relief and to NXX Code
Conservation Measures

NSD-L-99-36, CC Docket 96-98
In the Matter of the California Public Utilities Commission's Petition for a Waiver to
Implement a Technology-Specific or Service-Specific Area Code

Dear Ms. Salas:

Enclosed for filing in the above matter please find two originals and ten copies of the
Massachusetts Department of Telecommunications and Energy's Combined Comments in
Support of (1) the California Public Utilities Commission's Request for Delegation of
Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation
Measures (NSD-L-98-136) and (2) the California Public Utilities Commission's Petition for
a Waiver to Implement a Technology-Specific or Service-Specific Area Code (NSD-L-99-
36). I would appreciate your filing one set in each docket listed above.

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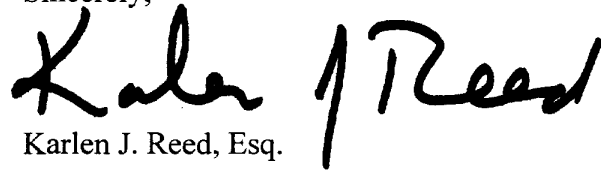
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Kindly stamp one copy and return it to us in the enclosed self-addressed Federal Express envelope. I have filed a copy of these comments electronically with the Commission's ECFS service (proceeding number 96-98).

Sincerely,

A handwritten signature in black ink, appearing to read "Karlen J. Reed". The signature is stylized with a large "K" and a long, sweeping "R".

Karlen J. Reed, Esq.

KJR/kr

Enc.

cc: MDTE Commission (w/enc.)
Paul G. Afonso, General Counsel, MDTE (w/enc.)
Attached Service List (w/enc.)



The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

NSD-L-98-136
NSD-L-99-36
CC Docket 96-98

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S
COMBINED COMMENTS IN SUPPORT OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION'S
REQUEST FOR DELEGATION OF ADDITIONAL AUTHORITY PERTAINING TO
AREA CODE RELIEF AND TO NXX CODE CONSERVATION MEASURES AND
PETITION FOR A WAIVER TO IMPLEMENT A TECHNOLOGY-SPECIFIC OR
SERVICE-SPECIFIC AREA CODE

Massachusetts Department of
Telecommunications and Energy

Janet Gail Besser, Chair
James Connelly, Commissioner
W. Robert Keating, Commissioner
Paul B. Vasington, Commissioner
Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12th Floor
Boston, MA 02202
617-305-3500

Dated: June 11, 1999



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

NSD-L-98-136
NSD-L-99-36
CC Docket 96-98

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S
COMBINED COMMENTS IN SUPPORT OF THE CALIFORNIA PUBLIC UTILITIES
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REQUEST FOR DELEGATION OF ADDITIONAL AUTHORITY PERTAINING TO
AREA CODE RELIEF AND TO NXX CODE CONSERVATION MEASURES AND
PETITION FOR A WAIVER TO IMPLEMENT A TECHNOLOGY-SPECIFIC OR
SERVICE-SPECIFIC AREA CODE

In response to the Common Carrier Bureau ("Bureau") of the Federal Communications Commission's ("FCC" or "Commission") Public Notices released May 14, 1999, the Massachusetts Department of Telecommunications and Energy ("Department") respectfully submits these combined comments in support of the California Public Utilities Commission's ("CPUC") Request for Delegation of Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation Measures ("Conservation Petition") and Petition for a Waiver to Implement a Technology-Specific or Service-Specific Area Code ("Technology Petition") (collectively, the "Petitions"). In its Conservation Petition, the CPUC seeks additional authority to (1) implement a mandatory number pooling trial; (2) order efficient number use practices within NXX codes; (3) hear and address requests by carriers for assignment of codes outside the NXX code rationing process; (4) order carriers to return to the code administrator unused NXX codes; and (5) order carriers to return unused or under-utilized portions of NXX codes to the pooling administrator. In its

Technology Petition, the CPUC asks the Commission to waive 47 C.F.R. § 52.19(c)(3) to authorize the CPUC to implement a technology-specific or service-specific area code overlay.

The Department supports the CPUC's Petitions because granting the Petitions will allow California to create innovative solutions tailored to the numbering issues that are particular to California's circumstances. The Department specifically supports California's request to serve as a number pooling trial, the results of which can be used to create national standards under the Commission's May 27, 1999, Notice of Proposed Rulemaking ("May 27, 1999 NPRM") on numbering issues.¹ The Department also specifically supports California's waiver request for a technology-specific overlay, which mirrors the Department's request for a technology-specific overlay filed February 12, 1999, and which is also part of the May 27, 1999 NPRM.²

I. BACKGROUND

On September 28, 1998, the Commission issued a Memorandum Opinion and Order which outlined state commission authority to order the implementation of exchange code conservation methods. In the Matter of Petition for Declaratory Ruling and Request for

¹ On May 27, 1999, the Commission adopted a Notice of Proposed Rulemaking ("May 27, 1999 NPRM") to consider measures intended to increase the efficiency with which telecommunications carriers use telephone numbers. Notice of Proposed Rulemaking, FCC 99-122 (released May 27, 1999).

² The Department filed a Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes on February 12, 1999 (FCC Public Notice DA 99-460, NSD-L-99-17, released March 4, 1999).

Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 312, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 98-224, NSD File No. L-97-42 (published November 16, 1998, Fed. Reg., 13 FCC Rcd. 19009) ("Pennsylvania Opinion"). Several petitions for reconsideration, such as the Department's petition filed October 28, 1998,³ are currently being considered by the Commission.

On April 23, 1999, the CPUC filed its Conservation Petition and Technology Petition in an effort to slow the rate at which area codes are being introduced into California (Conservation Petition at 2). On May 14, 1999, the Commission issued public notices seeking comment on the issues presented in the CPUC Conservation Petition⁴ and Technology Petition.⁵ California joins Massachusetts, New York, Maine, and Florida in having filed petitions with the Commission for additional authority to implement code

³ The Department filed a Petition for Reconsideration of the FCC's September 28, 1998, Opinion, on October 28, 1998, NSD-L-97-42, CC Docket 96-98.

⁴ FCC Public Notice - "Common Carrier Bureau Seeks Comment on a Petition of the California Public Utilities Commission and the People of the State of California for Delegation of Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation Measures (NSD File No. L-98-136, CC Docket 96-98)."

⁵ FCC Public Notice - "Common Carrier Bureau Seeks Comment on a Petition of the California Public Utilities Commission and the People of the State of California for a Waiver to Implement a Technology-Specific or Service-Specific Area Code (NSD File No. L-99-36, CC Docket 96-98)."

conservation measures.⁶ California also joins Massachusetts and Connecticut in seeking authority from the Commission to impose a technology-specific area code overlay.⁷ On April 12, 1999, U.S. Senator Susan Collins (R-ME) introduced legislation (Senate Bill 765) requiring the Commission to develop a plan for efficient allocation of telephone numbers by December 31, 2000.⁸

II. DISCUSSION

The FCC has encouraged state commissions to develop creative and innovative solutions to numbering issues (Pennsylvania Opinion at ¶¶ 30-31). The petitions of California, Massachusetts, Maine, New York, Florida, and Connecticut are the first steps in developing such solutions. The Department supports the CPUC's Petitions because the

⁶ The Department filed a Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes on February 17, 1999 (FCC Public Notice DA 99-461, NSD-L-99-19, released March 5, 1999). The New York State Department of Public Service filed a Petition for Additional Delegated Authority to Implement Number Conservation Measures on February 19, 1999 (FCC Public Notice DA 99-462, NSD-L-99-21, released March 5, 1999). The Maine Public Utilities Commission filed a Petition for Additional Delegated Authority to Implement Number Conservation Measures on March 17, 1999 (FCC Public Notice DA 99-638, NSD-L-99-27, released April 1, 1999).

⁷ See fn.2. The Connecticut Department of Public Utility Control ("CTDPUC") filed a petition with the Commission on March 31, 1998, requesting the Commission to amend its rules prohibiting technology-specific or service-specific area code overlays (FCC Public Notice DA 98-743, released April 17, 1998, at 2; MDTE Initial Comments, DA 98-743, filed April 24, 1998, at 1, 2). By issuing the May 27, 1999 NPRM, the Commission has, in effect, granted the CTDPUC petition's request for a rule making procedure.

⁸ Senator Collins' legislation, joined by Senator Robert G. Torricelli (D-NJ) and Joseph I. Lieberman (D-CT), has been read twice and referred to the Senate Committee on Commerce, Science and Transportation.

CPUC's proposed code conservation measures offer significant opportunities to relieve the pressures of premature exchange code exhaust confronting California.

The Department has presented its supporting views on many of the code conservation methods enumerated by the CPUC in comments and reply comments filed by the Department on various state code conservation petitions.⁹ The Department will not consume the Commission's limited time with repeating those arguments. The Department draws the Commission's specific attention to two of California's requests in connection with the Commission's May 27, 1999 NPRM: (1) California seeks authority to serve as the site of a number pooling trial, and (2) California requests authority to impose a technology-specific area code overlay.

A. California should serve as a site for a number pooling trial

On April 22, 1999, the North American Numbering Plan Administration ("NANPA") released its findings that the existing supply of exchange codes could be extended to the year 2094 using 1,000 block number pooling, rather than exhausting in the year 2008 without 1,000 block number pooling.¹⁰ The 1KB (1,000) Pooling Model clearly demonstrates the viability and need for this conservation method. NANPA summarizes its findings as follows:

The 1KB Pooling Model (Pooling Model) projects the impact of Thousands Block Pooling (1KB) Pooling on NANP resources. 1KB Pooling provides TN [telephone number] resources to participating SPs [service providers] in

⁹ See MDTE Comments filed on the petitions enumerated in fns. 2, 3, 6, and 7.

¹⁰ NANPA Exhaust Study at 4-1 (rel. April 22, 1999).

blocks of 1,000 rather than in CO [central office] Code blocks of 10,000. . . . With all industry segments participating in 1KB Pooling, the expected date for NANP Exhaust is in the 2094 timeframe versus the 2008 timeframe without 1KB Pooling.

NANPA Exhaust Study at 4-1. The Commission's May 27, 1999 NPRM seeks comment on the use of 1,000 block number pooling and states that a trial test of pooling in Illinois saved approximately 1,370,000 telephone numbers (NPRM FCC News Release, May 27, 1999, at 2). The Department urges the Commission to mandate 1,000 block number pooling quickly to conserve vanishing exchange codes. In the interim, the Department requests the Commission to delegate to state commissions like the CPUC and the Department the authority to mandate 1,000 block number pooling and to allow California to serve as a pooling trial test site.

B. The Commission Should Allow States to Use Technology-Specific Area Code Overlays

The CPUC, the Department, and the Connecticut Department of Public Utility Control have advocated allowing these states to implement a technology-specific or service-specific area code overlay. Under 47 C.F.R. § 1.3, an applicant seeking a waiver of the Commission's rules must demonstrate good cause for the waiver. The Department contends that the CPUC has demonstrated good cause for a waiver of 47 C.F.R. § 52.19 as requested because (1) California is faced with the daunting prospect of adding 15 more area codes by the end of the year 2002 (CPUC Technology Petition at 2), demonstrating a need for the overlay; (2) the CPUC has received numerous public comments during its area code relief meetings advocating the use of a technology-specific overlay, indicating consumer

acceptance for such an overlay, and (3) the Commission's extension to November 24, 2002, of the local number portability ("LNP") requirement for wireless carriers will discourage wireless carriers from participating in number pooling until they become LNP-capable, thus increasing the desirability of assigning to wireless carriers a specific area code to assure number availability.

The use of a technology-specific overlay can ease the area code numbering problem now facing consumers. Rapid growth in demand for numbers by wireless carriers, such as what we have seen in California and eastern Massachusetts, coupled with the current inefficient number allocation system, aggravates the number exhaust problem. Wireless providers who concentrate their NXX requests in select areas can quickly deplete the available supply in that area and can exhaust an area code shortly after it is created. Assigning wireless carriers to a specific area code overlay allows wireless carriers to concentrate their NXX requests in that area while extending the lives of the remaining area codes.

In the Commission's 1996 Local Competition Second Report and Order, the Commission denied a request to implement a technology-specific or service-specific overlay because such an overlay would (1) be unreasonably discriminatory and (2) unduly inhibit competition.¹¹ The issue of whether a technology-specific or service-specific overlay would

¹¹ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Record 19392 (1996), petitions for reconsideration pending, vacated in part, People of the State of California v. FCC, 124 F.3d 934 (8th Cir. August 22, 1997), cert. granted, sub nom. AT&T Corp. v. Iowa Util. Bd., 118

unreasonably discriminate and unduly inhibit competition will be explored in the May 27, 1999 NPRM and by state regulators on the basis of their knowledge of local market conditions. The legislative and executive expressions of consumer interest in a technology-specific overlay merit the Commission's attention. Public acceptance, legislative demand, and executive mandate for a technology-specific overlay should be weighed against the view that such an overlay is unreasonably discriminatory.

III. CONCLUSION

The Department supports the CPUC's Conservation Petition and Technology Petition and the efforts of the CPUC to address its numbering issues with a multitude of code conservation methods. The Commission should delegate to the CPUC the requested additional authority and should allow California to serve as a test site for a number pooling trial using 1,000 block number pooling. The Department strongly urges the Commission to allow the CPUC, the Department and the CDPUC to implement technology-specific overlays as these state commissions deem appropriate. The CPUC Petitions present useful, creative, and innovative proposals on code conservation for the Commission's consideration. For the foregoing reasons, we support the Request for Delegation of Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation

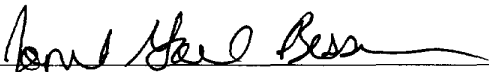
S.Ct. 879 (Jan. 26, 1998), reversed in part on other grounds and remanded, No. 97-826 (S.Ct. Jan. 25, 1999).

Measures and the Petition for a Waiver to Implement a Technology-Specific or Service-Specific Area Code filed by the California Public Utilities Commission on April 23, 1999.

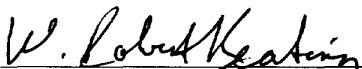
Respectfully submitted,


Massachusetts Department of
Telecommunications and Energy

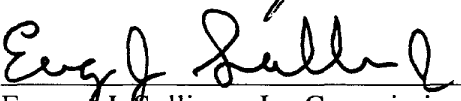
By:


Janet Gail Besser, Chair


James Connelly, Commissioner


W. Robert Keating, Commissioner


Paul B. Vasington, Commissioner


Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12th Floor
Boston, MA 02202
617-305-3500

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

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<hr/>)	

SERVICE LIST

Al McCloud (2 copies)
Network Services Division
Common Carrier Bureau
Federal Communications Commission
Portals II, 445 12th Street, SW
Room 6A-320
Washington, DC 20554

Yog R. Varma
Deputy Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
Portals II, 445 12th Street, SW, Room C-345
Washington, DC 20554

Anna Gomez
Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
Portals II, 445 12th Street, SW
Washington, DC 20554

Lawrence E. Strickling, Chief
Common Carrier Bureau
Federal Communications Commission
Portals II, 445 12th S.W.
Washington, DC 20554

Network Services Division Reference Center
Portals II, 445 12th Street, S.W.
Suite CY-A257
Washington, DC 20554

International Transcription Service
1231 20th Street, N.W.
Washington, DC 20036

Helen M. Mickiewicz, Esq.
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Joe Garcia, Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Levent Ileri
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Cynthia B. Miller, Esq.
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Louise Rickard
Acting Executive Secretary
Connecticut Public Utilities Commission
10 Franklin Square
New Britain, CT 06051

Jack Goldberg, Commissioner
Connecticut Public Utilities Commission
10 Franklin Square
New Britain, CT 06051

Trina M. Bragdon, Esq.
Maine Public Utilities Commission
242 State Street
Augusta, ME 04333

Cheryl L. Callahan, Esq.
New York State Department of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

David E. Screven, Esq.
Assistant Counsel
Pennsylvania Public Utilities Commission
PO Box 3265
Harrisburg, PA 17105

Philip F. McClelland, Esq.
Assistant Consumer Advocate
Office of Consumer Advocate
Office of Attorney General
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923

Michael H. Dworkin, Chairman
Vermont Public Services Board
112 State Street (Chittenden Bank Building), Drawer 20
Montpelier, VT 05620-2701

Nancy Brockway, Commissioner
New Hampshire Public Utilities Commission
8 Old Suncook Road
Concord, NH 03301-7319

J. Bradford Ramsay, Esq.
NARUC
1100 Pennsylvania Avenue, Suite 603
Washington, DC 20004

Daniel Mitchell, Esq.
Assistant Attorney General
Regulated Industries Division
Office of the Attorney General
200 Portland Street, 4th floor
Boston, MA 02114

Wayne Milby
Lockheed Martin CIS
1133 15th Street NW
Washington, DC 20006

Cheryl Tritt, Esq.
Morrison & Foerester
2000 Pennsylvania Ave., N.W.
Washington, DC 20006

Barbara Anne Sousa, Esq.
Bell Atlantic-Massachusetts
185 Franklin St., Room 1403
Boston, MA 02110

Kenneth W. Salinger, Esq.
Palmer & Dodge LLP
One Beacon Street
Boston, MA 02108

Kenneth Ira Spigle, Esq.
Rosenberg, Freedman & Goldstein
246 Walnut Street
Newton, MA 02460

Elizabeth McJimsey, Esq.
Sprint Spectrum L.P. d/b/a Sprint PCS
4900 Main Street, 12th Floor
Kansas City, MO 64112

Ellen Schmidt, Esq.
Counsel, Director of Reg. Affairs
MediaOne Telecommunications of Massachusetts, Inc.
6 Campanelli Drive
Andover, MA 01890

Nathan T. Foose, Esq.
Martin Rothfelder, Esq.
The Rothfelder Law Offices
625 Central Avenue
Westfield, NJ 07090

Robert Shapiro, Esq.
Maribeth Ladd, Esq.
Rubin & Rudman, LLP
50 Rowes Wharf
Boston, MA 02110-3319

Michael Adams, Esq.
Benjamin Dickens, Jr., Esq.
Blooston, Mordkofsky, Jackson & Dickens
2120 L Street, NW
Washington, DC 20037

Harvey C. Kaish, Esq.
Teresa Moore, Esq.
McCarter & English
Four Gateway Center, P.O. Box 652
Newark, NJ 07101

Curtis L. Groves, Esq.
Hope H. Barbulescu, Esq.
MCI WorldCom
5 International Drive
Rye Brook, NY 10573-1095

Alan D. Mandl, Esq.
Ottenberg, Dunkless, Mandl & Mandl
260 Franklin Street, Suite 1880
Boston, MA 02110

Russell M. Blau, Esq.
Richard M. Rindler, Esq.
Kathleen L. Greenan, Esq.
Morton J. Posner, Esq.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW Suite 300
Washington, DC 20007

Cathy Thurston, Esq.
State Regulatory Affairs/East
Sprint Communications Company, LP
1850 M Street, NW, Suite 1100
Washington, DC 20036

Matthew H. Berns, Esq.
Focal Communications Corporation
200 North LaSalle Street
Chicago, IL 60601

John O. Postl, Esq.
William J. Rooney, Jr., Esq.
Global Naps, Inc.
10 Merrymount Road
Quincy, MA 02169

Scott Sawyer, Esq.
NEVD of Massachusetts, LLC
222 Richmond Street, Suite 206
Providence, RI 02903

Eric J. Krathwohl, Esq.
Rich, May, Bilodeau & Flaherty, P.C.
294 Washington Street
Boston, MA 02108

Jordan Michael, Esq.
CTC Communications Corp.
360 Second Avenue
Waltham, MA 02154